

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

AMERICAN SENIOR BENEFITS, LLC,

Plaintiff,

v.

HOLLY KING and TARA ZIKA,

Defendants.

No. 4:17-CV-223 RLW

**MEMORANDUM AND ORDER**

This matter is before the Court on Defendants' Motion for Jurisdictional Discovery (ECF No. 16). In conjunction with their Memorandum in Opposition to Motion to Remand (ECF No. 15), Defendants ask this Court to allow them to conduct some limited jurisdictional discovery. In the Motion for Jurisdictional Discovery, Defendants note that Mr. Sweeney's affidavit in support of the Motion to Remand discusses ASB's "override" or "highest override percentage" to estimate the damages at issue. (ECF No. 16). Defendants then "request permission, should the Court find additional discovery necessary or helpful, to depose co-owner of ASB, Jim Sweeney, regarding jurisdictional facts including the affidavit attached to ASB's motion to remand and the attachments thereto, and the amount in controversy in this case." Plaintiff has not filed an opposition to the Motion for Jurisdictional Discovery, nor has Plaintiff filed a reply in support of its Motion to Remand. The Court agrees that discovery is warranted. "Discovery is not limited to the merits of a case; 'where issues arise as to jurisdiction or venue, discovery is available to ascertain the facts bearing on such issues.'" *Pudlowski v. The St. Louis Rams, LLC*, 829 F.3d 963, 964 (8th Cir. 2016) (quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 n. 13,

98 S.Ct. 2380, 57 L.Ed.2d 253 (1978) (citation omitted). Here, discovery is necessary to determining the meaning of “override” or “highest override percentage” in order to determine the proper measure of damages and the amount in controversy.

Accordingly,

**IT IS HEREBY ORDERED** that Defendants’ Motion for Jurisdictional Discovery (ECF No. 16) is **GRANTED**. The parties shall conduct the deposition of Mr. Sweeney, for the limited purpose of determining jurisdiction, no later than **February 15, 2017**.

**IT IS FURTHER ORDERED** that the parties shall file any supplemental briefing related to the amount in controversy no later than **February 22, 2017**.

**IT IS FURTHER ORDERED** that the hearing on the Motion for Preliminary Injunction will be reset for **March 1, 2017** at 11:00 a.m., if necessary.

Dated this 8th day of February, 2017.

  
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**RONNIE L. WHITE**  
**UNITED STATES DISTRICT JUDGE**